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City of Austin Solicitation Ordinances and Enforcement

City Council
September 27, 2007



Presentation Outline

1. Council action in December, 2005
2. Overview of current ordinances on solicitation;
3. Areas where current ordinances do and do not apply;
4. Enforcement of Current Ordinance
5. Other tools available for enforcement;
6. Recommendations.



2005 Council Action on Solicitation

- December 15, 2005- Council passed an ordinance related to several “public order” issues, including solicitation.
- Part of the 2005 proposed ordinance, as presented to Council, would have eliminated the area restriction for roadside solicitation, and applied the ordinance city-wide.



2005 Council Action on Solicitation

- **New provisions adopted to prohibit solicitation:**
 - In the downtown business area between 7 00 p m and 7 00 a m ,
 - City-Wide On either side of the street on a block where a school or child-care center attended by minors has an entrance or exit,
 - City-Wide At a sidewalk café or the patio area of a bar or restaurant, and
 - City-Wide At the door of a residence between 9 00 p m and 9 00 a m (for contributions only)
- Roadside solicitation ordinance was not expanded city-wide, pending further study of the day labor site issue



Current Austin Ordinances

- **“Solicit” means to:**
 - request, by the spoken, written, or printed word, or by other means of communication
 - an immediate donation or transfer of money or another thing of value from another person,
 - regardless of the solicitor’s purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered
- The definition of solicitation would include a request for payment for “service” such as windshield washing, or to sell an item, or charitable solicitation.



Current Solicitation Ordinances:

- **Prohibit 3 types of solicitation:**
 1. Aggressive Solicitation in a Public Area (city-wide) Sec. 9-4-13 (C)(1).
 2. (Non-Aggressive) Solicitation - With Vehicle Involved. Sec. 12-1-27.
 3. (Non-Aggressive) Solicitation at Certain Places or Times - No Vehicle Involved. Sec. 9-4-13 (C)(2)-(7).



1. Aggressive Solicitation

“Aggressive Manner” means:

1. Physical contact without the solicited person’s consent
2. Following the person being solicited, causing fear or intimidation.
3. Continuing to solicit within 5 feet, after a negative response
4. Blocking safe or free passage, or requiring evasive action to avoid contact.
5. Using obscene or abusive language or gestures
6. Approaching in a manner that causes fear or intimidation.



2. (Non-Aggressive) With Vehicle Involved

- **Roadside Solicitation – Sec. 12-1-27**
- **Only 3 areas where roadside solicitation is prohibited:**
 1. In the Downtown Business Area,
 2. In the area near the day labor site located at 4916 North IH-35, and
 - 3 In the area near Cesar Chavez and IH-35.



2. (Non-Aggressive) With Vehicle Involved, cont'd

- **Current Ordinance prohibits:**

1. Solicitation by Pedestrian

- By a person who is in or next to a street, on a sidewalk, or in a private parking area
- From an occupant of a motor vehicle

2. Solicitation by Motorist

- By a person in a motor vehicle
- From a person who is in or next to a street, on a sidewalk, or in a private parking area



2. (Non-Aggressive) With Vehicle Involved, cont'd

- **The ordinance does not apply to:**
 - A day labor site run by or for the City; or
 - A private parking area for soliciting employment, unless signs are posted that prohibit that activity.



3. (Non-Aggressive) Certain Places or Times

Solicitation prohibited:

1. In a bus, at a bus station or stop, or at a facility operated by a transportation authority for passengers;
2. Within 25 feet of:
 - An ATM
 - A bank entrance or exit;
 - A check cashing business entrance or exit.
3. At a marked crosswalk;

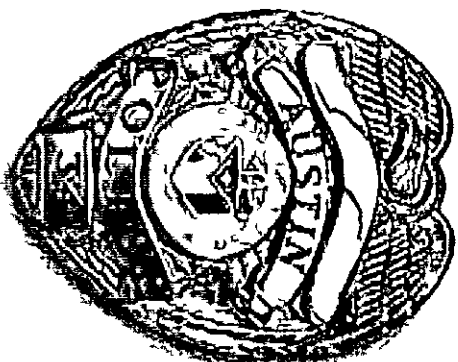


3. (Non-Aggressive) Certain Places or Times, cont'd

4. On either side of the street on a block where a school attended by minors has an entrance or exit;
5. At a sidewalk café or the patio area of a bar or restaurant;
6. In the downtown business area between 7:00 p.m. and 7:00 a.m.; or
7. At the door of a residence between 9:00 p.m. and 9:00 a.m. (for contributions only).



APD Enforcement of Current Ordinance





Enforcement of Current Ordinance

A violation of the Solicitation/Aggressive Solicitation Ordinance is enforced with one of the following:

- **Complaint from citizen**

- *Solicitation that requires a verbal statement to be considered aggressive or*

- *Not in presence or view of an officer*

Within view of an officer such as

- ▶ ATM
- ▶ Sidewalk Café
- ▶ Crosswalk
- ▶ Roadside Solicitation in the 3 specifically prohibited areas
- ▶ Pedestrian in Road Way



Other Law Enforcement Tools

City Code - Pedestrians in Roadways

(Sec 12-1-26)

Current Citywide Ordinance:

Prohibits a pedestrian from standing in a roadway to:

1. Solicit a ride from the driver of a vehicle; or;
2. Linger, loiter, or remain on a roadway for any purpose.



Other Law Enforcement Tools (cont.)

552.007 Transportation Code


•Prohibits solicitation by pedestrians in roadway:


A pedestrian *may not* stand in the roadway to solicit the following from an occupant of a vehicle:

- ride ♦ contribution ♦ employment ♦ business
- Prohibits a person from standing on or near a highway to solicit the watching or guarding of a vehicle parked or to be parked on the highway.



Solicitation & Pedestrian In Road Calls and Issued Citations

CAD calls (Calls for Police Service)	Jan-Aug 2006	Jan-Aug 2007	
<i>Pedestrian in Roadway</i>	2153	2599	
<i>Solicitation</i>	354	302	+15.7%
Total	2507	2901	

Charges Filed	Jan-Aug 2006	Jan-Aug 2007	
<i>Pedestrian in Roadway</i>	598	997	
<i>City Ordinance Solicitation Specified</i>	169	662	+116%
Total	767	1659	



Crashes at Top 20 Solicitation Sites

Jan - Aug 2007			
LOCATION	Total	Fatality	Injuries
I 35 & Rundberg	31		12
I 35 & Riverside	26	1	15
Rundberg & Lamar	23		10
I 35 & Anderson	22		12
I 35 & Oltorf	21	1	9
Riverside & Pleasant Valley	20		12
Congress & Oltorf	20		11
Wm Cannon & Manchaca	15		5
I 35 & Cesar Chavez	14		5
Anderson & Burnet	13		5
Parmer & Dessau	13		8
Mopac & 2222	12		6
Airport & Lamar	11		7
Ben White & Manchaca	10		6
I 35 & 51st	10	1	4
Research & Burnet	8		3
Parmer & Metric	7		5
4000 S Lamar Brodie Shopping	6		2
Lamar & Barton Springs	6		4
I 35 & 38th	5		2

*Only two fatalities reported at top 20 crash sites citywide during same time period in 2006



Auto/Pedestrian Crashes

YTD '07: 301 crashes involving Pedestrians

- **17 fatalities**

- **Over 1/3** had a history of violating solicitation ordinance/state law

Jan-Aug'06: 283 crashes involving Pedestrians

- **12 fatalities**

- **Over 1/3** had a history of violating solicitation ordinance/state law



Recommendations

Because solicitation is producing an increased perception of fear and intimidation for motorists; growing impediments to the flow of traffic; and unsafe conditions on our roadways,

APD recommends the following:

- Amend 9-4-13 to prohibit solicitation on either side of a street within 1,000 feet of a school or child-care center.
- Amend 12-1-27 to expand the roadside solicitation ordinance city-wide, by eliminating area restrictions, and providing that it does not apply to private parking areas.